

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7517

Petition of Eastview Water Company, Inc., under)
30 V.S.A. Section 231, for authority to abandon its)
facilities and service, and for revocation of its Certificate)
of Public Good; and related petition of the Trustees of)
the C.W. Bowman Trust, under 30 V.S.A. Section 208,)
disputing the right of Eastview Water Company, Inc. to)
use the facilities located on the Trustees' property)

Order entered: 9/16/2010

ORDER RE PROPOSED ABANDONMENT OF FACILITIES AND SERVICE BY
EASTVIEW WATER COMPANY, INC. AND
REVOCATION OF ITS CERTIFICATE OF PUBLIC GOOD

I. REPORT

This docket was opened in 2009 following the filing of two petitions. On November 26, 2008, Lee Wakefield and Forrest Bowman, as Trustees of the C.W. Bowman Trust ("Bowman Trust") filed a petition with the Public Service Board ("Board") seeking, among other things, authorization to abandon a well located on the property of the Bowman Trust. This well was being used in the public service business of Eastview Water Company, Inc. ("Water Company")¹ to provide service to the residence of Barbara A. Hutchins, the sole remaining customer of the Water Company. On February 26, 2009, Deane F. Hedges of Theodore G. Hedges & Sons, Inc. ("Hedges"), the owner and operator of the Water Company,² filed a letter with the Board joining

1. Eastview Water Company, Inc. was issued a Certificate of Public Good under the provisions of 30 V.S.A. § 102 by an Order of the Board, dated June 2, 1964, in Docket 3055.

2. Theodore G. Hedges & Sons, Inc. purchased all the outstanding stock of the Water Company, which at the time served 11 customers, in an acquisition that was approved by the Board under 30 V.S.A. § 107 on April 16, 1971, in Docket 3477.

in the petition of the Bowman Trust to abandon the well and seeking to discontinue service to Ms. Hutchins.

A prehearing conference was convened on June 8, 2009, at which counsel for the Bowman Trust and counsel for Ms. Hutchins indicated that the Bowman Trust and Ms. Hutchins were close to an agreement on the development of an alternative source of water for Ms. Hutchins.

On August 12, 2010, counsel for the Bowman Trust filed with the Board a stipulation signed by the Bowman Trust, Hedges and Ms. Hutchins, as well as an agreement, dated June 29, 2009, among the same parties. Among other things, the agreement provided for the drilling and connection of a well on the property of Ms. Hutchins. The construction of the well on Ms. Hutchins' property has now been completed. Counsel for Ms. Hutchins filed a letter with the Board on August 17, 2010, indicating that Ms. Hutchins is satisfied with the well that was provided to her pursuant to the agreement. The Department filed a recommendation on September 1, 2010, in which it indicated that it had no objection to granting the requested relief. The Department recommended, however, that, as a condition of the Board's order, the Petitioners be required to certify that the connection between the Eastview water system and Ms. Hutchins' residence has been disconnected and capped.

Under the stipulation, Ms. Hutchins, Hedges and the Bowman Trust agreed that the Board may enter an order granting authority to the Water Company to discontinue service to Ms. Hutchins and to abandon the water system used by the Water Company to provide service to Ms. Hutchins. The parties to the stipulation also consented to the revocation of the Certificate of Public Good that had been issued to the Water Company on June 2, 1964, in Docket 3055.

Now that Ms. Hutchins has an alternative water supply and is satisfied with the well constructed on her property, and assuming the condition proposed by the Department is met, there is no reason not to grant the petition of the Water Company to discontinue service, abandon its facilities and revoke its Certificate of Public Good. Accordingly, pursuant to 30 V.S.A. § 8 and based on the representations of the parties and the stipulation, I find that the discontinuance of service and abandonment of facilities by the Water Company is consistent with the public interest and recommend to the Board that it approve such discontinuance and abandonment

pursuant to 30 V.S.A. § 231(b). Furthermore, I find good cause for the Board to revoke the Certificate of Public Good of the Water Company and recommend to the Board that such Certificate of Public Good be revoked pursuant to 30 V.S.A. § 102(c). I also recommend that any order issued by the Board be subject to the condition proposed by the Department that the petitioners certify that the water system has been disconnected from Ms. Hutchins' residence and capped.

Based on the filed stipulation and the recommendation of the Department, the proposal for decision in this report is not adverse to the interest of any party³ and, therefore, need not be circulated to the parties for comment pursuant to 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 8th day of September, 2010.

s/ Lars Bang-Jensen, Esq.
Lars Bang-Jensen
Hearing Officer

3. Although this proposal contains a condition recommended by the Department that was not part of the stipulation agreed to by the other parties, it would not seem to be adverse to the interests of any party. One would expect that the appropriate disconnection of the residence from the water system would have been done in the ordinary course of connecting Ms. Hutchins' new well. To require the petitioners to provide confirmation of such disconnection and capping would appear to be too minor a condition to be adverse to their interests. However, if the petitioners object to this condition, they may file a motion for reconsideration with the Board.

II. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and recommendations of the Hearing Officer are adopted.
2. No later than thirty days after the date of this Order, either Eastview Water Company, Inc., or the Trustees of the C.W. Bowman Trust, shall file with the Vermont Department of Public Service and the Public Service Board a letter confirming that the connection between the water system of the Eastview Water Company, Inc. and the residence of Ms. Barbara Hutchins has been disconnected and capped.
3. Subject to the satisfaction of Condition 2 above, Eastview Water Company, Inc. is granted authority to discontinue service and abandon its facilities pursuant to 30 V.S.A. § 231(b).
4. Subject to the satisfaction of Condition 2 above, the Certificate of Public Good issued to Eastview Water Company, Inc. on June 2, 1964, in Docket 3055 is hereby revoked for good cause pursuant 30 V.S.A. § 102(c).

Dated at Montpelier, Vermont, this 16th day of September, 2010.

<u>s/ James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/ David C. Coen</u>)	
)	
)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 16, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.